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| APPLICATION NO.      | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|----------------------|-------------|----------------------|---------------------|------------------|
| 10/582,289           | 02/20/2007  | Doris Reich          | 3465                | 2835             |
| 278                  | 7590        | 06/08/2009           | EXAMINER            |                  |
| MICHAEL J. STRIKER   |             |                      | ROSE, ROBERT A      |                  |
| 103 EAST NECK ROAD   |             |                      |                     |                  |
| HUNTINGTON, NY 11743 |             |                      | ART UNIT            | PAPER NUMBER     |
|                      |             |                      | 3727                |                  |
|                      |             |                      | MAIL DATE           | DELIVERY MODE    |
|                      |             |                      | 06/08/2009          | PAPER            |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/582,289             | REICH ET AL.        |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Robert Rose            | 3727                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 3/4/09, 6/4/09.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-17 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ .  | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

1. Receipt is acknowledged of Applicant's Amendment and Supplemental Amendment, filed March 4, 2009 and June 4, 2009, respectively.
2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
3. Claims 1-7, 9-10, 12-14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reich et al(US 6514131) in view of Stirm. Reich et al discloses an electric hand-held power tool with a machine housing having a dust-ejection opening, and a dust-collection container with a box and cover, connected thereto. While the dust-collection box is constructed to be removable from the machine housing for emptying, it would have been obvious in view of Stirm, to have constructed the dust-collection box as an integral portion of the machine housing, and formed the cover and filter section as a removable element for alternately emptying the dust from the unit, for convenience and to avoid misplacing the dust-collection box. With regard to claim 2, the specific shape of the dust-collection box is regarded as being one of obvious design choice to those of ordinary skill in the art in the absence of a clear showing of criticality with respect to the particular shape recited. With regard to claim 17, the dust collection box in Reich et al is considered to form a portion of the handle, as it attaches to a lower section of the handle opening.

4. Claims 8, 11, and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reich et al('131) in view of Stirm and further in view of Park. Park discloses a power tool having a dust-collection box, with cylindrical shape and having corresponding shaped filter element. With regard to claim 8, to make the dust-collection box in the form of a cylinder, as taught by Park, to maximize the capacity of the filter element, would have been obvious to those of ordinary skill in the art. With regard to claim 15, to embody the filter element in Reich et al as a conventional pleated filter to maximize the area available for filtering, would have been obvious in view of Park.

5. Applicant's arguments filed March 4, 2009, and June 4, 2009 have been fully considered but they are not persuasive. Applicant has amended the independent claims to recite that the dust-collection box is configured as an injection molded part integrally joined with the machine housing and wherein a handle is integrally formed on machine housing, and the handle is configured as a dust-collection container which is unseparable from the machine housing and cannot be detached or pulled off from the machine housing to be emptied, while the cover that closes the dust-collection box is removable from the dust-collection box, and only the cover is removed from the dust-collection box to empty the latter. The dust-collection box in Reich et al is designed to be removable from the machine housing for emptying. However, Stirm teaches the expediency of forming the dust collection box integrally with the housing. It would have been obvious in view of Stirm, to have constructed the dust-collection box in Reich et al as an integral portion of the machine housing, by an injection molding process, and to have formed the cover and filter section as a removable element for alternately

emptying the dust from the unit, for convenience and to avoid misplacing the dust-collection box. The specific shape of the dust-collection box is regarded as being one of obvious design choice to those of ordinary skill in the art, in the absence of a clear showing of criticality with respect to any particular shape recited. With regard to claim 17, the dust collection box in Reich et al is considered to form a portion of the handle, as it attaches to a lower section of the handle opening. Park was applied as before for the teaching of using a cylindrical filter element.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Rose whose telephone number is (571) 272-4494. The examiner can normally be reached on Monday through Thursday, and on alternate Fridays, from 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter, can be reached at (571) 272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Robert Rose/  
Primary Examiner  
Art Unit 3727

Rr

June 5, 2009.